

GRACEHOLLIS LLP

Graham S.P. Hollis (State Bar No. 120577)

Marta Manus (State Bar No. 260132)

3555 Fifth Avenue

San Diego, California 92103

Telephone: (619) 692-0800

Facsimile: (619) 692-0822

Attorneys for Plaintiff

MANDI HOVATER

SEYFARTH SHAW LLP

Alfred L. Sanderson (State Bar No. 186071)

Brandon R. McKelvey (State Bar No. 217002)

Jason D. Glenn (State Bar No. 244470)

400 Capitol Mall, Suite 2300

Sacramento, California 95814-4428

Telephone: (916) 448-0159

Facsimile: (916) 558-4839

Attorneys for Defendant

WINCO FOODS, LLC

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

MANDI HOVATER, individually and on behalf
of all similarly situated current and former
employees of WINCO FOODS, LLC, and
WINCO FOODS, INC.,

Plaintiffs,

v.

WINCO FOODS, LLC, WINCO FOODS, INC.
and DOES 1 through 10, inclusive,

Defendants.

Case No. 3:11-cv-00557-CRB

**STIPULATION AND ORDER RE
DISMISSAL OF CLASS ACTION
ALLEGATIONS**

Judge: Hon. Charles R. Breyer

Date:

Time:

Complaint filed: February 18, 2010

Trial Date: None Set

STIPULATION

WHEREAS Plaintiff Mandi Hovater's ("Plaintiff") First Amended Complaint alleges that she was misclassified as an exempt employee and seeks to represent a class of "[a]ll current and former California night shift assistant store managers of WinCo who were not paid for wages for overtime hours worked and penalties for meal and rest breaks for the period February 9, 2006 to the present";

1 **WHEREAS**, the related matter *Stephen Gales v. WinCo Foods et al.*, Case No. 3:09-cv-
 2 05813-CRB pending in this Court. Gales alleges, like Hovater, that he was misclassified as an
 3 exempt employee and is owed compensation for unpaid overtime wages. Gales seeks to
 4 represent a class of “persons employed in California by WinCo as an assistant manager, both
 5 night and day, for the four year period preceding the filing of this Complaint to the present.” The
 6 Gales class seeks to represent a class of individuals that encompasses Hovater’s proposed class.
 7 Plaintiff has therefore determined that it is in her best interest and the interests of the potential
 8 class not to pursue the class action allegations and to continue only individually on behalf of
 9 herself for claims against Defendants. The interests of the class will be protected by the
 10 continued litigation on its behalf in the *Gales* matter.

11 **THEREFORE, IT IS HEREBY STIPULATED** by and between Plaintiff and
 12 Defendants, through their attorneys or record, that Plaintiff will not pursue the class action
 13 allegations on behalf of the class and any references to the class action allegations are deemed to
 14 be stricken from the First Amended Complaint. Plaintiff will continue to pursue her individual
 15 claims against Defendants. The Parties stipulate to the dismissal of the class allegations without
 16 prejudice.

17
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 19 DATED: May 11, 2011

SEYFARTH SHAW LLP

20
 21 By /s/ Alfred L. Sanderson, Jr.
 22 Alfred L. Sanderson, Jr.
 23 Brandon R. McKelvey
 Jason D. Glenn
 Attorneys for Defendant
 WINCO FOODS, LLC

24 DATED: May 11, 2011

GRACE HOLLIS LLP

25
 26 By /s/ Marta Manus
 27 Graham S.P. Hollis
 Marta Manus
 Attorneys for Plaintiff
 28 MANDI HOVATER

ORDER

Pursuant to the parties' stipulation, it is hereby ORDERED that all references to the class action allegations are deemed to be stricken from the First Amended Complaint and Plaintiff's class action allegations be dismissed without prejudice.

IT IS SO ORDERED.

DATED: May 16, 2011

